



# House of Representatives

General Assembly

**File No. 579**

January Session, 2009

Substitute House Bill No. 5312

*House of Representatives, April 9, 2009*

The Committee on Public Health reported through REP. RITTER of the 38th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

**AN ACT CONCERNING CRIMINAL BACKGROUND CHECKS FOR EMPLOYEES OF HOMEMAKER-COMPANION AGENCIES AND HOME HEALTH AGENCIES.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 20-670 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2009*):

3 As used in sections 20-670 to 20-680, inclusive, as amended by this  
4 act:

5 (1) "Certificate" means a certificate of registration issued under  
6 section 20-672, as amended by this act.

7 (2) "Commissioner" means the Commissioner of Consumer  
8 Protection or any person designated by the commissioner to  
9 administer and enforce the provisions of sections 20-670 to 20-680,  
10 inclusive, as amended by this act.

11 (3) "Companion services" means nonmedical, basic supervision

12 services to ensure the well-being and safety of a person in such  
13 person's home.

14 (4) "Employee" means any person employed by, or who enters into a  
15 contract to perform services for, a homemaker-companion agency,  
16 including, but not limited to, temporary employees, pool employees  
17 and independent contractors.

18 (5) "Homemaker services" means nonmedical, supportive services  
19 that ensure a safe and healthy environment for a person in such  
20 person's home, such services to include assistance with personal  
21 hygiene, cooking, household cleaning, laundry and other household  
22 chores.

23 (6) "Homemaker-companion agency" means any public or private  
24 organization, employing one or more persons that is engaged in the  
25 business of providing companion services or homemaker services.  
26 Homemaker-companion agency shall not include a home health care  
27 agency, as defined in subsection (d) of section 19a-490, or a  
28 homemaker-home health aide agency, as defined in subsection (e) of  
29 section 19a-490.

30 (7) "Service plan" means a written document provided by a  
31 homemaker-companion agency to a person utilizing services provided  
32 by such agency, that specifies the anticipated scope, type, frequency  
33 and duration of homemaker or companion services that are to be  
34 provided by such agency for the benefit of the person.

35 (8) "Comprehensive background check" means a background  
36 investigation performed by the agency, that includes, but is not limited  
37 to: (A) A review of the employment application prepared by the  
38 agency and completed by the applicant; (B) an in-person interview of  
39 the applicant; (C) verification of the applicant's Social Security number;  
40 (D) if the position applied for within the agency requires licensure on  
41 the part of the applicant, verification that the required license is in  
42 good standing; (E) a check of the registry established and maintained  
43 pursuant to section 54-257; (F) a review of criminal conviction

44 information obtained through a search of current criminal matters of  
45 public record in this state based on the applicant's name and date of  
46 birth; (G) if the applicant has resided in this state less than five years  
47 prior to the date of the application for employment, a review of  
48 criminal conviction information from the state or states where such  
49 applicant resided during the five-year period preceding the date of  
50 such application for employment with the agency; and (H) a review of  
51 any other information that the agency deems necessary in order to  
52 evaluate the suitability of the applicant for the position.

53       Sec. 2. Subsection (a) of section 20-672 of the general statutes is  
54 repealed and the following is substituted in lieu thereof (*Effective*  
55 *October 1, 2009*):

56       (a) Any person seeking a certificate of registration as a homemaker-  
57 companion agency shall apply to the Commissioner of Consumer  
58 Protection, in writing, on a form provided by the commissioner. The  
59 application shall include the applicant's name, residence address,  
60 business address, business telephone number and such other  
61 information as the commissioner may require. An applicant shall also  
62 be required to submit to state and national criminal history records  
63 checks in accordance with section 29-17a and to certify under oath to  
64 the commissioner that: (1) Such agency complies with the  
65 requirements of section 20-678 concerning employee comprehensive  
66 background checks, (2) such agency provides all persons receiving  
67 homemaker or companion services with a written individualized  
68 contract or service plan that specifically identifies the anticipated  
69 scope, type, frequency and duration of homemaker or companion  
70 services provided by the agency to the person, (3) such agency  
71 maintains a surety bond, and (4) all records maintained by such  
72 agency shall be open, at all reasonable hours, for inspection, copying  
73 or audit by the commissioner.

74       Sec. 3. Subsection (a) of section 20-675 of the general statutes is  
75 repealed and the following is substituted in lieu thereof (*Effective*  
76 *October 1, 2009*):

77 (a) The Commissioner of Consumer Protection may revoke, suspend  
78 or refuse to issue or renew any certificate of registration as a  
79 homemaker-companion agency or place an agency on probation or  
80 issue a letter of reprimand for: (1) Conduct by the agency, or by an  
81 employee of the agency while in the course of employment, of a  
82 character likely to mislead, deceive or defraud the public or the  
83 commissioner; [or] (2) engaging in any untruthful or misleading  
84 advertising; or (3) failing to perform a comprehensive background  
85 check of an applicant for employment as required by section 20-678.

86 Sec. 4. (NEW) (*Effective October 1, 2009*) (a) As used in this section,  
87 "comprehensive background check" means a background investigation  
88 performed by a home health agency, as defined in subsection (k) of  
89 section 19a-490 of the general statutes, that includes, but is not limited  
90 to: (1) A review of the employment application prepared by the agency  
91 and completed by the applicant; (2) an in-person interview of the  
92 applicant; (3) verification of the applicant's Social Security number; (4)  
93 if the position applied for within the agency requires licensure on the  
94 part of the applicant, verification that the required license is in good  
95 standing; (5) a check of the registry established and maintained  
96 pursuant to section 54-257 of the general statutes; (6) a review of  
97 criminal conviction information obtained through a search of current  
98 criminal matters of public record in this state based on the applicant's  
99 name and date of birth; (7) if the applicant has resided in this state less  
100 than five years prior to the date of the application for employment, a  
101 review of criminal conviction information from the state or states  
102 where such applicant resided during the five-year period preceding  
103 the date of such application; and (8) a review of any other information  
104 that the agency deems necessary in order to evaluate the suitability of  
105 the applicant for the position.

106 (b) Each home health agency shall require that any employee of  
107 such agency hired on or after October 1, 2009, submit to a  
108 comprehensive background check. In addition, each home health  
109 agency shall require that any such employee of such agency hired on  
110 or after October 1, 2009, complete and sign a form which contains

111 questions as to whether the current or prospective employee was  
112 subject to any decision imposing disciplinary action by a licensing  
113 agency in any state, the District of Columbia, a United States  
114 possession or territory or a foreign jurisdiction. Any such employee of  
115 a home health agency hired on or after October 1, 2009, who makes a  
116 false written statement regarding such prior disciplinary action shall  
117 be guilty of a class A misdemeanor.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>October 1, 2009</i>	20-670
Sec. 2	<i>October 1, 2009</i>	20-672(a)
Sec. 3	<i>October 1, 2009</i>	20-675(a)
Sec. 4	<i>October 1, 2009</i>	New section

**AGE**      *Joint Favorable Subst. C/R*

PH

**PH**      *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

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**OFA Fiscal Note****State Impact:**

Agency Affected	Fund-Effect	FY 10 \$	FY 11 \$
Consumer Protection, Dept.	GF - None	None	None

Note: GF=General Fund

**Municipal Impact:** None

**Explanation**

The Department of Consumer Protection can make changes in its applications within existing resources and therefore there is no cost associated with the bill.

**OLR Bill Analysis****sHB 5312*****AN ACT CONCERNING CRIMINAL BACKGROUND CHECKS FOR EMPLOYEES OF HOMEMAKER-COMPANION AGENCIES AND HOME HEALTH AGENCIES.*****SUMMARY:**

This bill makes changes in the laws regarding background checks for homemaker-companion and home health agencies. It:

1. requires a homemaker-companion agency applicant to submit to state and national criminal history records checks;
2. allows the Department of Consumer Protection (DCP) commissioner to revoke, suspend, or deny registration certificates if a homemaker-companion agency fails to perform a comprehensive background check of any applicant for employment;
3. requires home health agency employees hired on or after October 1, 2009 to submit to a comprehensive background check and sign a written form regarding prior disciplinary action; and
4. defines the term “comprehensive background check.”

EFFECTIVE DATE: October 1, 2009

**DEFINITIONS**

Under the bill, “comprehensive background check” means a background investigation performed by a home health or homemaker-companion agency that includes:

1. a review of the applicant’s employment application;
2. an in-person interview of the applicant;

3. verification of the applicant's Social Security number;
4. if the position requires the applicant's licensure, verification that the required license is in good standing;
5. a check of the Department of Public Safety's sex offender registry;
6. a review of criminal conviction information obtained through an in-state public records search based on the applicant's name and date of birth;
7. if the applicant has lived in the state less than five years before the employment application date, a review of criminal conviction information in any state where the applicant lived during this five year period; and
8. a review of any additional information the agency deems necessary to evaluate the applicant's suitability for the position.

Current law does not define "comprehensive background check," specify particular procedures, or identify who must conduct these checks. (In practice, background checks vary in terms of their scope, complexity, and the years covered, among other things. They may include checks of any or all of the following: criminal history, credit, professional license, employment, and education records.)

## **HOMEMAKER-COMPANION AGENCIES**

### ***Applicant Criminal History Record Checks***

The bill requires any person applying to DCP for a homemaker-companion agency registration certificate to submit to state and national criminal history record checks. By law, these checks must be requested through the State Police Bureau of Identification.

Current law requires applicants to certify under oath that all employees hired after October 1, 2006 have (1) submitted to a comprehensive background check and (2) signed a written form regarding prior criminal convictions or disciplinary actions.



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**Registration Issuance and Denial Procedures**

The bill adds a condition under which the DCP commissioner may revoke, suspend, or deny certificates; place registrants on probation; or issue letters of reprimand: the agency's failure to perform a comprehensive background check of an employment applicant. Current law allows the commissioner to take any of these actions for (1) agency conduct (or that of an employee in the course of employment) likely to mislead, deceive, or defraud the public or the commissioner or (2) untruthful or misleading advertising.

**HOME HEALTH AGENCIES****Employee Background Checks**

Under the bill, a home health agency must require an employee hired on or after October 1, 2009 to submit to a comprehensive background check. It also requires these employees to complete and sign a form containing questions about whether they were subject to any decision imposing disciplinary action by a licensing agency in any state, the District of Columbia, a U.S. possession or territory, or a foreign jurisdiction. If an employee makes a false written statement about his or her prior disciplinary action, the bill makes the employee guilty of a Class A misdemeanor, for which the penalty is up to one year imprisonment, up to a \$2,000 fine, or both.

**COMMITTEE ACTION**

Select Committee on Aging

Joint Favorable Substitute Change of Reference  
Yea 11 Nay 0 (03/05/2009)

Public Health Committee

Joint Favorable Substitute  
Yea 29 Nay 0 (03/25/2009)